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19 TOTAL VEIN SOLUTIONS, LLC

20
21 **UNITED STATES DISTRICT COURT**
22 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
23 **SAN FRANCISCO DIVISION**

24 TYCO HEALTHCARE GROUP LP d/b/a
25 VNUS MEDICAL TECHNOLOGIES,
26 Plaintiff/Counter-defendants,
27 v.
28 TOTAL VEIN SOLUTIONS, LLC, d/b/a
TOTAL VEIN SYSTEMS ,
Defendants/Counter-Plaintiffs.

Case No. C08-3129-MMC
(Consolidated Case No. C08-04234
MMC)

ORDER GRANTING

JOINT STIPULATED MOTION AND
~~PROPOSED~~ ORDER BY VNUS AND
TVS FOR DISMISSAL OF TVS AND
PARTIAL VACATUR OF VERDICT
Judge: The Hon. Maxine M. Chesney

20 WHEREAS, Plaintiff Tyco Healthcare Group LP d/b/a VNUS Medical Technologies
21 (“VNUS”) and Defendant Total Vein Solutions, LLC (“TVS”) have entered into a Settlement
22 Agreement resolving, *inter alia*, all claims asserted by VNUS against TVS and all
23 counterclaims asserted by TVS against VNUS in the above-captioned action; and

24 WHEREAS the Settlement Agreement expressly contemplates the dismissal and
25 vacatur provided for herein, so that dismissal and vacatur will resolve all pending litigation
26 between VNUS and TVS, including those matters contained in the Settlement Agreement.

27 NOW THEREFORE, VNUS and TVS hereby jointly stipulate and respectfully move
28 the Court for a confirmatory order as follows:

- 1 1) The portions of the December 8, 2010 verdict (D.I. 441) corresponding
2 specifically to TVS (i.e., questions 4, 5, 6, 9a & 9b) are hereby VACATED
3 pursuant to Fed. R. Civ. P. 60(b). *See Thomas v. City of Tacoma*, 410 F.3d 644,
4 647 n.2 (9th Cir. 2005); *Click Entm't, Inc. v. JYP Entm't Co.*, 2009 WL
5 3030212, at *1 (D. Haw. 2009);
- 6 2) TVS is dismissed with prejudice from this action pursuant to Federal Rule of
7 Civil Procedure 41(a)(2);
- 8 3) The counterclaims asserted by TVS against VNUS are dismissed with prejudice
9 pursuant to Federal Rule of Civil Procedure 41(c);
- 10 4) Each party will bear its own fees, costs and expenses; and
- 11 5) The caption shall be amended in all subsequent pleadings to reflect this
12 dismissal.

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14 *[Remainder of page intentionally left blank.]*
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1 Dated: November 9, 2011

ATTORNEYS FOR DEFENDANT
TOTAL VEIN SOLUTIONS, LLC
d/b/a TOTAL VEIN SYSTEMS,

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3 By: /s/ John K. Buche

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20 Dated: November 9, 2011

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28 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: November 15, 2011


THE HON. MAXINE M. CHESNEY
United States District Judge